IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4370 OF 2005

Mrs.Ingred Helen Manezes W/o. Ruban Menexes & Anr. : Petitioners/ Org.Plaintiffs

V/s.

Manoj Raghunath Koli & Ors. : Respondents/ Org.Defendants

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Mr.S.P.Srivastava for the petitioners.

Mr.P.V.Havnur for the respondent nos.1 and 2.

Mr.A.H.Palekar, Asstt. Govt. Pleader, for the respondent nos.3 and 4.

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CORAM : S.A. BOBDE, J.

July 26, 2005.

P.C.:

1. Rule, returnable forthwith.

Mr.Havnur for the respondent nos.1 and 2 and Mr.Palekar, learned Asstt. Govt. Pleader for the respondent nos.3 and 4, appear and waive service of rule.

Heard by consent.

2. The petitioners are aggrieved by the order by which

their Notice of Motion for restoring the suit against the respondent nos.3 and 4 i.e. the Collector of Prohibition & Excise and the State of Maharashtra had been deferred for decision along with the suit. This order, in my view, is absolutely erroneous in view of the fact that it would unnecessarily protract the hearing of the suit, if the Notice of Motion is taken up along with the suit. On the other hand, it would be more appropriate to have the Notice of Motion considered before hearing of the suit. The learned City Civil Court is, therefore, directed to decide the Notice of Motion as expeditiously as possible.

3. The rule is made absolute in the aforesaid terms.

S.A. BOBDE, J.